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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,472	08/19/2003	Herbert Naumann		5443

7590

08/18/2004

Dr. Max Fogiel  
61 Ethel Road West  
Piscataway, NJ 08854

EXAMINER

CHANG, CHING

ART UNIT PAPER NUMBER

3748

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/643,472	<b>Applicant(s)</b> NAUMANN, HERBERT	
	<b>Examiner</b> Ching Chang	<b>Art Unit</b> 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 and 15-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 12-14 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

Applicant's election of the species of Figure 4 and claims 12-14, 19, and 20 with traverse filed on June 18, 2004 is acknowledged. The traversal of "that all claims can be examined together without requiring separate search" is not found persuasive because each invention in the non-elected species of Fig. 1-3, and Fig. 5 does require additional, separate search in class/subclass 74/569.

The requirement is still deemed proper and is therefore made FINAL. Claims 12-14, and 20 are readable on the elected invention, accordingly, claims 1-11, 15-18, and claim 19 (dependent on claim 1 and improperly dependent on a foreign patent application) stand withdrawn from consideration as being directed to a non-elected invention.

***Priority***

1. The foreign priority claim filed on August 19, 2003 was not entered because the foreign priority claim was not filed during the time period set forth in 37 CFR 1.55(a)(1). For original applications filed under 35 U.S.C. 111(a) (other than a design application) on or after November 29, 2000, the time period is during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. For applications that have entered national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the claim for priority must be made during

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the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT. See 37 CFR 1.55(a)(1)(ii). If applicant desires priority under 35 U.S.C. 119(a)-(d), (f) or 365(a) based upon a prior foreign application, applicant must file a petition for an unintentionally delayed priority claim (37 CFR 1.55(c)). The petition must be accompanied by (1) the claim (i.e., the claim required by 35 U.S.C. 119(a)-(d) and (f) and 37 CFR 1.55) for priority to the prior foreign application, unless previously submitted; (2) a surcharge under 37 CFR 1.17(t); and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

It is not entirely clear to the Examiner if applicant is attempting to claim priority for an application filed under 35 U.S.C. 111 or 371. The case been processed under the provisions set forth in 35 U.S.C. 111(a), since no instruction was given to this Office to the contrary. See MPEP 1893.03(a). It is noted that the filing date of the priority claimed is over one year from the filing date of this application. If applicant is filing under 35 U.S.C. 111(a), a statement following the title should state that this application is a continuation of PCT/EP02/07321 which claimed priority of German application 101 36 612.4 filed on July 17, 2001. Additionally lacking, is a certificated copy of the German application. If applicant is indeed filing under 35 U.S.C. 111(a), he will additionally need a claim of priority to the German application which is now missing in the Oath.

### ***Specification***

2. The disclosure is objected to because of the following informalities:
- " rocker lever 54 " in line 24, Page 10 of the Specification appears to be  
-- rocker lever 64 --.
  - " setting disk 57 " in line 3, Page 11 of the Specification appears to be  
-- setting disk 52 --.
  - " structure 23 " in line 8, Page 11 of the Specification appears to be  
-- structure 63 --.
  - " valves 51 " in line 1, Page 12 of the Specification appears to be  
-- valve 52 --.
  - " setting disks 58 " in line 22 of the Specification appears to be  
-- setting disks 52 --.

Appropriate corrections are required.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Wurms et al. (US Patent 6,715,456).
  - Pierik (US Patent 6,439,177).
  - Fischer (US Patent 5,899,180).

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- Burandt (US Patent 4,459,946).

4. This application is in condition for allowance except for the following formal matters:

Claims 12-14, and 20 are objected, because

- In claim 12, "with their structures (62 & 63)" appears to be -- with downward structures (62 and 63) --. "the structures (63) that maintain" appears to be -- the structure (63) maintain --. "the distance (2)" appears to be -- the distance (L) --, and "the two radii" lacks of antecedent basis in the claim.
- In claim 14, "rocker levers (63)" appears to be -- rocker levers (59) --.
- In claim 20, "the radii (R1 & R2) of the rollers (65)" appears to be -- the radii (R1) and (R2) of the roller (65) --, and "the rollers (63)" appears to be -- the roller (65) --.

The Examiner would like to suggest that Applicant makes the appropriate corrections on the aforementioned claims.

5. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

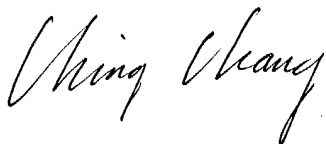
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ching Chang whose telephone number is (703)306-3478. The examiner can normally be reached on M-Th, 7:00 AM -5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703)308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner



Ching Chang



THOMAS DENION  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700